

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT(S): Govardhan and Khalaf  
SERIAL NO.: 10/024,405 EXAMINER: Gupta, A.  
FILING DATE: December 18, 2001 ART UNIT: 1654  
FOR: Daptomycin and Related Analogs in Crystalline Form

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Commissioner for Patents  
Washington, D.C. 20231

INFORMATION DISCLOSURE STATEMENT

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Pursuant to the duty of disclosure under 37 C.F.R. §§1.56, 1.97 and 1.98, Applicants hereby make of record the documents listed below and on the attached modified Form PTO-1449 (submitted in duplicate) in the above-identified application. The order of presentation of the references should not be construed as an indication of the importance of the references. This Information Disclosure Statement is being filed before the mailing date of a first Office Action on the merits in the above-identified case. Accordingly, no fee or certification is required. 37 C.F.R. §1.97.

A copy of each of the references is enclosed unless otherwise indicated on the attached Form PTO-1449 (modified). It is respectfully requested that the Examiner consider completely the cited information, along with any other information, in reaching a determination concerning the patentability of the present claims, and signs the enclosed form PTO-1449 to evidence that the cited information has been fully considered by the Patent and Trademark Office during the examination of this application.

By submitting this Information Disclosure Statement, the Applicant makes no representation that: (1) a search has been performed, of the extent of any search performed, or that more relevant information does not exist; (2) the information cited in the Statement is, or is considered to be, material to patentability as defined in 37 C.F.R. §1.56(b); and (3) the information cited in the Statement is, or is considered to be, in fact, prior art as defined by 35 U.S.C. §102.

Applicants further bring to the Examiner's attention the following pending applications which are believed to be directed to subject matter similar to that claimed in the subject application:


i) U.S. Serial No. 10/023,517, filed December 17, 2001, naming Dennis Keith, Jan-Ji Lai, Nazar Khalaf, and Chandrika Govardhan as inventors, entitled "Methods for Preparing Purified Lipopeptides"; and

ii) U.S. Serial No. 10/024,701, filed December 17, 2001, apparently naming Dennis Keith, Chandrika Govardhan, and Nazer Khalaf as inventors, entitled "Methods for Preparing Purified Daptomycin".

These applications, filed by Cubist Pharmaceuticals, Inc. ("Cubist"), name a different inventive entity than named in the subject application. Applicants note that the above-identified applications are believed to claim priority to the same provisional applications as the subject application, namely U.S. Provisional Application Nos. 60/256,628, filed December 18, 2001, and 60/274,741. Inventors Nazar Khalaf and Chandrika Govardhan, who have assigned their rights in the subject application to Altus Biologics Inc. ("Altus"), have not filed a Declaration or Oath in the Cubist applications. Altus has received notice of U.S. Serial No. 10/023,517 through their inventors' receipt of a Letter pursuant to 37 C.F.R. 1.47(a) issued in connection with that application. Altus has been notified of the existence of U.S. Serial No. 10/024,701 by Cubist's counsel. Altus is not presently aware that any additional application has been filed by Cubist directed to similar subject matter which does not name at least one of the Altus inventors. However, should Altus determine that any such additional application has been filed, it will be brought to the Examiner's attention in a supplemental IDS. Altus maintains that Govardhan and Khalaf alone are the correct co-inventors of any subject matter in common between the subject application and the Cubist applications.

Notwithstanding any statements made herein by Applicants, the Examiner is urged to form his own conclusion regarding the relevance of the cited information. An early and favorable action is hereby requested. Please charge any fees that may be due, or credit any overpayment of same, to Deposit Account No. 50-0311 Reference No. 17741-503.

Respectfully submitted,



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Dated: March 10, 2003

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Modified Form 1449/PTO  <b>INFORMATION DISCLOSURE STATEMENT BY APPLICANT</b>  (use as many sheets as necessary)	<b>Application Number</b>	10/024,405
	<b>Filing Date</b>	12/18/01
	<b>First Named Inventor</b>	Govardhan
	<b>Group Art Unit</b>	1654
	<b>Examiner Name</b>	Gupta, A.
	<b>Attorney Docket Number</b>	17741-503

U.S. PATENT DOCUMENTS							
Exam Initials	Cite No.	U.S. Patent Document No.	Issue Date	Name of Patentee(s) or Applicant(s)	Class	Sub Class	Filing Date If Appropriate
	A1	3,773,919	11/20/73	Boswell and Scribner			10/08/70
	A2	4,439,425	03/27/84	Tarcsay et al.			06/07/82
	A3	4,482,487	11/13/84	Abbott et al.			01/31/84
	A4	4,485,045	11/27/84	Regen			05/26/82
	A5	4,522,811	06/11/85	Eppstein et al.			07/08/82
	A6	4,524,135	06/18/85	Abbott et al.			08/03/84
	A7	4,537,717	08/27/85	Abbott et al.			09/21/84
	A8	4,544,545	10/01/85	Ryan et al.			06/20/83
	A9	4,800,157	01/24/89	Eaton et al.			09/09/85
	A10	4,874,843	10/17/89	Baker			12/03/87
	A11	4,885,243	12/05/89	Huber et al.			09/09/85
	A12	5,013,556	05/07/91	Woodle et al.			10/20/89
	A13	5,527,534	06/18/96	Myhling			10/21/93
	A14	5,529,782	06/25/96	Staab			11/03/94
	A15	5,336,756	08/09/94	Schwartz et al.			08/27/91
	A16	5,912,226	06/15/99	Baker et al.			12/16/91
	A17	Re. 31,396	09/27/83	Hamill and Hoehn			07/19/82
	A18	Re. 32,310	12/16/86	Debono			05/21/82
	A19	Re. 32,311	12/16/86	Debono			05/21/82
	A20	2002/0142948	10/03/02	Oleson, JR. et al.			02/20/02

FOREIGN PATENT DOCUMENTS						
Exam Initials	Cite No.	Foreign Patent Document Office Number	Name of Patentee(s) or Applicant(s)	Date of Publication	Translation Yes No	
	B1	EP 0 511 866	Merck & Co. Inc.	November 4, 1992		
	B2	WO 99/55310	Altus Biologics Inc.	November 4, 1999	X	
	B3	WO 01/44271	Cubist Pharmaceuticals, Inc.	June 21, 2001	X	
	B4	WO 01/44272	Cubist Pharmaceuticals, Inc.	June 21, 2001	X	
	B5	WO 01/44274	Cubist Pharmaceuticals, Inc.	June 21, 2001	X	
	B6	WO 01/53330	Cubist Pharmaceuticals, Inc.	July 26, 2001	X	
	B7	WO 02/056829	Cubist Pharmaceuticals, Inc. and Altus Biologics Inc.	July 25, 2002	X	
	B8	WO 02/059145	Cubist Pharmaceuticals, Inc.	August 1, 2002	X	

OTHER PRIOR ART – NON PATENT LITERATURE DOCUMENTS		
Exam Initials	Cite No.	Name of Author, Title (when appropriate), Publication, Volume, Page(s), Date, Etc.
	C1	Conrad et al. (1998). <i>Proc. Okla. Acad. Sci.</i> <u>78</u> : 15-22.
	C2	Eppstein et al. (1985). <i>Proc. Natl. Acad. Sci. USA</i> <u>82</u> : 3688-3692.
	C3	Hwang et al. (1980). <i>Proc. Natl. Acad. Sci. USA</i> <u>77</u> : 4030-4034.
	C4	Jancarik and Kim (1991). <i>J. of Appl. Cryst.</i> <u>24</u> : 409-411.
	C5	Remington: <i>The Science and Practice of Pharmacy</i> , ed. Gennaro, Mack Publishing Co., Easton, PA, pgs. 1463-1486 (1995).
	C6	International Search Report for PCT/US01/49167, mailed February 20, 2003.

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\*a copy of this reference is not provided as it was previously cited by or submitted to the office in a prior application, Serial No. \_\_\_\_\_, filed \_\_\_\_\_, and relied upon for an earlier filing date under 35 U.S.C. §120 (continuation, continuation-in-part, and divisional applications).

Examiner Signature		Date Considered	
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EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609; Draw line through citation if not in conformance and not considered.

Include copy of this form with next communication to applicant.